

### **REMARKS**

This responds to the Office Action dated January 25, 2010.

Claim 1 is amended and claim 21 is added. The amendments to claim 1, as well as new claim 21, are supported by the application as originally filed; see, for example, page 8, lines 25-28, and page 17, lines 24-27. Claims 1-19 and 21 are currently pending.

#### **The Rejection of Claims Under § 102(e)**

Claims 1 and 3-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Wolff et al. (A, newly cited). Applicant respectfully traverses this rejection.

Applicant notes that the Wolff et al. patent was filed on December 10, 2004, which is after applicant's effective filing date of March 25, 2004. It is noted that Wolff et al. claims priority as a continuation-in-part application to several applications, including one which is also after applicant's effective filing date. Applicant respectfully requests the Examiner provide a citation to an authority of record to support the Examiner's assertion that Wolff et al. predates the instant invention.

Claim 1 has been amended to recite "[a] method for introducing nucleic acid into cells of a region of the human or animal body, which method comprises substantially occluding an efferent vessel from said body region and introducing said nucleic into that body region under pressure via said efferent vessel, further comprising generating ultrasonic vibrations in the region of nucleic acid delivery from an ultrasonic oscillator." As explained in the specification on page 17, lines 24-27, ultrasonic vibration is advantageous because ultrasound energy can enhance the transfection efficiency. Ultrasound energy weakens the outer structure of the cell, enhancing entry of the nucleic acid into the cell. This feature therefore renders the claimed method particularly effective at introducing nucleic acid into cells.

Applicant respectfully submits that the cited document does not disclose "generating ultrasonic vibrations in the region of nucleic acid delivery from an ultrasonic oscillator." Therefore, withdrawal of the rejection of these claims under 35 U.S.C. §102(e) is appropriate, and is respectfully requested.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (612) 373-6905 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date : May 25, 2010

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 25<sup>th</sup> day of May, 2010.

PATRICIA A. HULTMAN

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Name

  
Signature